



MEMORANDUM

TO: Nebraska Law Enforcement Agencies and County Attorneys

RE: Clarification of Nebraska Law Regarding Cannabidiol

DATE: September 1, 2017

Recent reports of potential sales of the controlled substance cannabidiol, commonly referred to as CBD, compels the Nebraska Attorney General's Office, in conjunction with the Nebraska State Patrol, to issue the following clarification regarding the legality of cannabidiol under Nebraska law.

Generally, cannabidiol has and continues to be included in the Uniform Controlled Substances Act's legal definition of "marijuana." See, Neb. Rev. Stat. § 28-401(13). This means that, with two exceptions, cannabidiol is a Schedule I controlled substance. The first exception is for cannabidiol obtained pursuant to Neb. Rev. Stat. 28-463 to 28-468. This exception was enacted in 2015 pursuant to LB390, which authorized the University of Nebraska Medical Center (UNMC) to produce or possess cannabidiol for a limited four-year medical study of seizures. The second exception is for cannabidiol "contained in a drug product approved by the federal Food and Drug Administration." This exception was enacted in the most recent legislative session, pursuant to LB 487 which prospectively reclassifies cannabidiol *in an FDA approved drug* as a Schedule V controlled substance. See, Neb. Rev. Stat. §28-405. LB487 took effect on August 24, 2017.

To date no drug products containing cannabidiol have received FDA approval. Therefore cannabidiol or any product containing cannabidiol, obtained by any means other than the authorized UNMC study, remains illegal to possess, manufacture, distribute, dispense, or possess with the intent to manufacture, distribute, or dispense. Such conduct is subject to prosecution for illegally possessing or trafficking a Schedule I controlled substance.

Any law enforcement agency with questions on this matter is encouraged to contact the Criminal Bureau of the Nebraska Attorney General's Office.